

105TH CONGRESS  
1ST SESSION

# H. R. 219

To establish a Federal program to provide reinsurance for State disaster insurance programs.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. LAZIO of New York (for himself, Mr. FAZIO of California, and Mr. McCOLLUM) introduced the following bill; which was referred to the Committee on Banking and Financial Services

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## A BILL

To establish a Federal program to provide reinsurance for State disaster insurance programs.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homeowners’ Insur-  
5 ance Availability Act of 1997”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

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1           (1) the rising costs resulting from natural dis-  
2           asters in recent years have placed a strain on home-  
3           owners' insurance markets in many areas, jeopardiz-  
4           ing the ability of many consumers to adequately in-  
5           sure their homes and possessions;

6           (2) the lack of a sufficient insurance capacity  
7           threatens to increase the number of uninsured home-  
8           owners, which, in turn, increases the risk of mort-  
9           gage defaults and the strain on the Federal banking  
10          system;

11          (3) some States have intervened to ensure the  
12          continued availability of homeowners' insurance for  
13          all residents;

14          (4) it is appropriate that efforts to improve in-  
15          surance availability be designed and implemented at  
16          the State level;

17          (5) while State insurance programs may be ade-  
18          quate to cover losses from most natural disasters, a  
19          small percentage of events are likely to exceed the fi-  
20          nancial capacity of these programs and the local in-  
21          surance market;

22          (6) Federal reinsurance for State disaster in-  
23          surance programs will improve the effectiveness of  
24          such State initiatives and increase the likelihood that

1 homeowners' insurance claims will be fully paid in  
2 the event of a large natural catastrophe; and

3 (7) any Federal reinsurance program must be  
4 founded upon sound actuarial principles and priced  
5 in a manner that minimizes the potential impact on  
6 the Treasury.

7 **SEC. 3. PROGRAM AUTHORITY.**

8 (a) PROGRAM.—The Secretary of the Treasury shall  
9 carry out a program under this Act to make reinsurance  
10 coverage available to eligible State insurance programs.  
11 The reinsurance coverage shall be designed to improve the  
12 availability of homeowners' insurance for the purpose of  
13 facilitating the pooling, and spreading the risk, of cata-  
14 strophic financial losses from natural disasters and to im-  
15 prove the solvency of homeowners' insurance markets.

16 (b) CONTRACTS.—Under the program under this Act,  
17 the Secretary shall offer reinsurance coverage through  
18 contracts with eligible purchasers under section 4, which  
19 contracts—

20 (1) shall provide coverage based solely on insur-  
21 ance industry losses within the State of the eligible  
22 purchaser purchasing the contract;

23 (2) shall not interfere in private markets; and

24 (3) shall minimize the administrative costs of  
25 the Federal Government.

1 **SEC. 4. ELIGIBLE PURCHASERS.**

2 The following entities shall be qualified to purchase  
3 contracts for reinsurance coverage made available under  
4 this Act:

5 (1) STATE INSURANCE PROGRAMS.—State-oper-  
6 ated insurance programs which offer coverage for  
7 homes, condominiums, and the contents of apart-  
8 ments to State residents because of the finding of  
9 the State insurance commissioner that such a pro-  
10 gram is necessary in order to provide for the contin-  
11 ued availability of such residential coverage for all  
12 residents.

13 (2) STATE REINSURANCE PROGRAMS.—State-  
14 operated reinsurance programs designed to improve  
15 private insurance markets which offer coverage for  
16 homes, condominiums, and the contents of apart-  
17 ments because of the finding of the State insurance  
18 commissioner that such a program is necessary in  
19 order to provide for the continued availability of  
20 such residential coverage for all residents.

21 **SEC. 5. QUALIFIED LINES OF COVERAGE.**

22 A contract for reinsurance coverage made available  
23 under this Act shall provide insurance coverage against  
24 the following losses:

1           (1) RESIDENTIAL PROPERTY.—Residential  
2       property losses to homes, condominiums, and the  
3       contents of apartment buildings.

4           (2) OTHER LOSSES.—Any other category of  
5       losses that the Secretary determines is appropriate  
6       for purposes of this Act.

7   **SEC. 6. COVERED PERILS.**

8       A contract for reinsurance coverage made available  
9       under this Act shall cover losses that are proximately  
10      caused by—

11           (1) earthquakes;

12           (2) perils ensuing from earthquakes, including  
13       fire and tsunami; and

14           (3) hurricanes.

15      The Secretary shall, by regulation, define such natural dis-  
16      aster perils.

17   **SEC. 7. TERMS OF REINSURANCE CONTRACTS.**

18       A contract for reinsurance coverage made available  
19       under this Act shall include the following terms and condi-  
20       tions:

21           (1) MATURITY.—The term of the contract shall  
22       not exceed 1 year.

23           (2) PAYMENT CONDITION.—The contract shall  
24       authorize claims payments for eligible losses only to  
25       eligible purchasers under section 4.

1           (3) RETAINED LOSSES REQUIREMENT.—The  
2       contract shall pay eligible losses only if the total  
3       amount of insurance claims for losses from covered  
4       perils to property, which is located within the State  
5       covered by the contract and covered by qualified  
6       lines, exceed the amount of retained losses provided  
7       under the contract (pursuant to section 8(a)) pur-  
8       chased by the eligible purchaser.

9           (4) CALCULATING ELIGIBLE LOSSES.—Eligible  
10      losses under the contract shall include only insur-  
11      ance claims for property covered by qualified lines  
12      that are paid within the 3-year period beginning  
13      upon the event for which payment under the con-  
14      tract is made.

15          (5) PRICING.—The cost of reinsurance coverage  
16      under the contract shall be established by the Sec-  
17      retary based upon the recommendations of the Na-  
18      tional Commission on Catastrophe Risks and Insur-  
19      ance Loss Costs established under section 10 and  
20      shall consist of the following components:

21           (A) RISK-BASED PRICE.—A risk-based  
22      price, which shall reflect the anticipated payout  
23      of the contract according to the actuarial analy-  
24      sis and recommendations of the Commission.

1 (B) RISK LOAD.—A risk load, determined  
2 by the Secretary, of not less than 2 times the  
3 risk-based price.

4 (C) ADMINISTRATIVE COSTS.—A sum suf-  
5 ficient to provide for the operation of the Com-  
6 mission and the administrative expenses in-  
7 curred by the Secretary in carrying out this  
8 Act.

9 The rates for reinsurance coverage shall produce ex-  
10 pected premiums which shall be sufficient to pay for  
11 all claims, loss adjustment expense, and all adminis-  
12 trative costs due to the reinsurance coverage for the  
13 Fund under section 9.

14 (6) REPAYMENT TERMS.—The contract shall  
15 require that an eligible purchaser under section 4  
16 which receives payments for qualifying claims that  
17 consist of amounts derived from obligations issued  
18 under section 9(d) shall—

19 (A) continue to purchase the reinsurance  
20 coverage provided under this Act at levels which  
21 are at least as great as before the receipt of  
22 such payments until such borrowed monies, in-  
23 cluding interest, are repaid pursuant to section  
24 9(d)(3)(C); or

1 (B) repay the portion of such payment de-  
 2 rived from such obligations, including interest,  
 3 within a reasonable period established by the  
 4 Secretary.

5 (7) OTHERS.—The contract shall contain such  
 6 other terms as the Secretary considers necessary to  
 7 ensure the long-term financial integrity of the pro-  
 8 gram under this Act.

9 **SEC. 8. LEVEL OF RETAINED LOSSES AND MAXIMUM FED-**  
 10 **ERAL LIABILITY.**

11 (a) LEVEL OF RETAINED LOSSES.—In making rein-  
 12 surance coverage available under this Act, the Secretary  
 13 shall make available for purchase contracts for reinsur-  
 14 ance coverage that require that the eligible purchaser pur-  
 15 chasing the contract sustain an amount of retained losses  
 16 (as required under section 7(3) for payment of eligible  
 17 losses) in each of the following amounts:

18 (1) \$2,000,000,000.

19 (2) \$10,000,000,000.

20 (3) Any such other amount, as the Secretary  
 21 determines appropriate.

22 Notwithstanding any other provision of this Act, an eligi-  
 23 ble purchaser under section 4 may not purchase a contract  
 24 for reinsurance coverage under this Act requiring an  
 25 amount of retained losses that is less than the current



1 claims-paying capacity for the State-operated insurance or  
2 reinsurance program that is the eligible purchaser, as de-  
3 termined by the Secretary.

4 (b) MAXIMUM FEDERAL LIABILITY.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (3) and notwithstanding any other provision  
7 of law, the maximum amount paid in any single year  
8 by the Secretary pursuant to claims under all con-  
9 tracts for reinsurance under this Act shall not ex-  
10 ceed \$25,000,000,000 (except that such dollar  
11 amount shall be adjusted as provided in paragraph  
12 (2)). If, in any single year, claims under existing  
13 contracts for reinsurance exceed \$25,000,000,000  
14 (or the amount determined pursuant to adjustment  
15 under paragraph (2)), each claimant shall receive a  
16 prorated portion of the amount available for pay-  
17 ment of claims.

18 (2) ANNUAL ADJUSTMENT.—Upon the expira-  
19 tion of the 4-year period beginning on the date that  
20 contracts for reinsurance coverage under this Act  
21 are first made available for purchase, and annually  
22 thereafter, the Secretary may adjust the dollar  
23 amounts set forth in paragraph (1) (as so previously

1 adjusted), to reflect the percentage growth in pre-  
2 mium for insurance which covers property under  
3 qualified lines.

4 (3) TRANSITION LIMITATION.—

5 (A) IN GENERAL.—During the 4-year pe-  
6 riod beginning on the date of the enactment of  
7 this Act, the Secretary shall establish and peri-  
8 odically revise a dollar amount which shall be  
9 the maximum amount that may be paid in any  
10 single year during such period pursuant to  
11 claims under all contracts for reinsurance under  
12 this Act. Such dollar amount limitation may not  
13 in any event exceed \$25,000,000,000. If, in any  
14 single year during such period, claims under ex-  
15 isting contracts for reinsurance exceed the dol-  
16 lar amount limitation established for such year  
17 pursuant to this paragraph, each claimant shall  
18 receive a prorated portion of the amount avail-  
19 able for payment of claims.

20 (B) ESTABLISHMENT.—In establishing any  
21 dollar amount limitation pursuant to paragraph  
22 (1), the Secretary shall take into consider-  
23 ation—

24 (i) the need for expanding the reinsur-  
25 ance program under this Act;

- 1 (ii) the amount available in the Fund  
2 established under section 9 and any ex-  
3 pected future credits to the Fund; and  
4 (iii) the availability of amounts pursu-  
5 ant to section 9(d).

6 **SEC. 9. DISASTER REINSURANCE FUND.**

7 (a) ESTABLISHMENT.—There is established within  
8 the Treasury of the United States a fund to be known  
9 as the Disaster Reinsurance Fund (in this section referred  
10 to as the “Fund”).

11 (b) CREDITS.—The Fund shall be credited with—

12 (1) amounts received annually from the sale of  
13 contracts for reinsurance coverage under this Act;

14 (2) any amounts borrowed under subsection  
15 (d);

16 (3) any amounts earned on investments of the  
17 Fund pursuant to subsection (e); and

18 (4) such other amounts as may be credited to  
19 the Fund.

20 (c) USES.—Amounts in the Fund may be used only  
21 to the extent approved in appropriation Acts and only for  
22 the following purposes:

23 (1) CONTRACT PAYMENTS.—For payments to  
24 purchasers of contracts for reinsurance coverage for  
25 eligible losses under such contracts.

1           (2) COMMISSION COSTS.—To pay for the oper-  
2           ating costs of the National Commission on Catas-  
3           trophe Risks and Insurance Loss Costs established  
4           under section 10.

5           (3) ADMINISTRATIVE EXPENSES.—To pay for  
6           the administrative expenses incurred by the Sec-  
7           retary in carrying out the reinsurance program  
8           under this Act.

9           (d) BORROWING.—

10          (1) AUTHORITY.—To the extent that the  
11          amounts in the Fund are insufficient to pay claims  
12          and expenses under subsection (c), the Secretary  
13          may issue such notes and other obligations as may  
14          be necessary to cover the insufficiency.

15          (2) INTEREST RATES.—Any such obligations  
16          shall bear interest at a rate determined by the Sec-  
17          retary, taking into consideration the current market  
18          yields on outstanding marketable obligations of the  
19          United States of comparable maturities.

20          (3) CONDITIONS.—The following conditions  
21          shall apply to any obligations issued under this sub-  
22          section:

23                 (A) The total amount of outstanding obli-  
24                 gations at any given time shall not exceed the

1 capacity of the Fund to repay such obligations  
2 within 20 years.

3 (B) The Secretary may issue such obliga-  
4 tions only to such extent and in such amounts  
5 as are provided in appropriations Acts.

6 (C) Any obligations issued under this sub-  
7 section shall be repaid, including interest, from  
8 the Fund and shall be recouped from premiums  
9 charged for reinsurance coverage provided  
10 under this Act.

11 (e) INVESTMENT.—If the Secretary determines that  
12 the amounts in the Fund are in excess of current needs,  
13 the Secretary may invest such amounts as the Secretary  
14 considers advisable in obligations issued or guaranteed by  
15 the United States.

16 (f) PROHIBITION OF FEDERAL FUNDS.—Except for  
17 amounts made available pursuant to subsection (d) and  
18 section 10(g), no Federal funds shall be authorized or ap-  
19 propriated for the Fund or for carrying out the reinsur-  
20 ance program under this Act.

21 **SEC. 10. NATIONAL COMMISSION ON CATASTROPHE RISKS**  
22 **AND INSURANCE LOSS COSTS.**

23 (a) ESTABLISHMENT.—The Secretary shall establish  
24 a commission to be known as the National Commission

1 on Catastrophe Risks and Insurance Loss Costs (in this  
2 section referred to as the “Commission”).

3 (b) DUTIES.—The Commission shall meet for the sole  
4 purpose of advising the Secretary regarding the estimated  
5 loss costs associated with the contracts for reinsurance  
6 available under this Act.

7 (c) MEMBERS.—The membership of the Commission  
8 shall be appointed at the discretion of the Secretary, but  
9 shall include at least 4 professional actuaries, 2 represent-  
10 atives of State insurance departments, 2 experts in the  
11 field of disaster modeling, a structural engineer, a mete-  
12 orologist, and a seismologist.

13 (d) EXPERTISE.—Each member appointed to the  
14 Commission shall be recognized as qualified in a field re-  
15 lated to natural disaster risk assessment or insurance.

16 (e) TREATMENT OF NON-FEDERAL MEMBERS.—  
17 Each member of the Commission who is not otherwise em-  
18 ployed by the Federal Government shall be considered a  
19 special Government employee for purposes of section 202  
20 of title 18, United States Code.

21 (f) COMPENSATION.—Each member of the Commis-  
22 sion who is not an officer or employee of the Federal Gov-  
23 ernment shall be compensated at a rate of basic pay pay-  
24 able for level V of the Executive Schedule, for each day

1 (including travel time) during which such member is en-  
2 gaged in the performance of the duties of the Commission.  
3 All members of the Commission who are officers or em-  
4 ployees of the United States shall serve without compensa-  
5 tion in addition to that received for their services as offi-  
6 cers or employees of the United States.

7 (g) FUNDING.—

8 (1) AUTHORIZATION OF APPROPRIATIONS.—

9 There are authorized to be appropriated—

10 (A) \$1,000,000 for fiscal year 1997 for the  
11 initial expenses in establishing the Commission  
12 and the initial activities of the Commission, as  
13 determined by the Secretary of the Treasury;  
14 and

15 (B) such additional sums as may be nec-  
16 essary to carry out subsequent activities of the  
17 Commission.

18 (2) OFFSET.—The Secretary shall provide, to  
19 the maximum extent practicable, that an amount  
20 equal to any amount appropriated under paragraph  
21 (1) is obtained from purchasers of reinsurance cov-  
22 erage under this Act and deposited in the Fund es-  
23 tablished under section 9. Such amounts shall be ob-  
24 tained by inclusion of a provision for the Commis-  
25 sion's expenses incorporated into the pricing of the

1 contracts for such reinsurance coverage, pursuant to  
2 section 7(5)(C).

3 **SEC. 11. REPORT ON SECONDARY MARKET MECHANISM**  
4 **FOR REINSURANCE CONTRACTS.**

5 Not later than the expiration of the 18-month period  
6 beginning on the date of the enactment of this Act, the  
7 Secretary shall submit to the Congress a report that—

8 (1) analyzes the extent of the market for resale  
9 of reinsurance contracts under this Act by the Sec-  
10 retary in the capital markets;

11 (2) proposes a program or system for making  
12 not less than 20 percent of the total written dollar  
13 value of such contracts available for purchase; and

14 (3) contains recommendations for any statutory  
15 changes necessary to operate such a program or sys-  
16 tem.

17 **SEC. 12. DEFINITIONS.**

18 For purposes of this Act, the following definitions  
19 shall apply:

20 (1) COVERED PERILS.—The term “covered per-  
21 ils” means the natural disaster perils under section  
22 6.

23 (2) QUALIFIED LINES.—The term “qualified  
24 lines” means lines of insurance coverage for which



1 losses are covered under section 5 by reinsurance  
2 coverage under this Act.

3 (3) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Treasury.

5 (4) STATE.—The term “State” means the  
6 States of the United States, the District of Colum-  
7 bia, the Commonwealth of Puerto Rico, the Com-  
8 monwealth of the Northern Mariana Islands, Guam,  
9 the Virgin Islands, American Samoa, and any other  
10 territory or possession of the United States.

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